



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/957,187	10/24/1997	EKKEHARD BEER	514425-3566	9736

20999 7590 07/09/2003

FROMMER LAWRENCE & HAUG  
745 FIFTH AVENUE- 10TH FL.  
NEW YORK, NY 10151

EXAMINER

KRUER, KEVIN R

ART UNIT	PAPER NUMBER
----------	--------------

1773

29

DATE MAILED: 07/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

08/957,187

Applicant(s)

BEER ET AL

Examiner

Kevin R Kruer

Art Unit

1773

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 02 July 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☒ they raise the issue of new matter (see Note below);
  - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: NONE.

Claim(s) objected to: NONE.

Claim(s) rejected: 10-14 and 16-23.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_.

***Advisory Action***

Applicant's arguments filed July 2, 2003 have been fully considered but they are not persuasive. Furthermore, the proposed amendments will not be entered because they do not place the application in better condition for appeal by materially reducing or simplifying the issues on appeal. Applicant has failed to show how the proposed amendments would be sufficient to overcome the outstanding rejections. The amendments also raise the issue of new matter. Specifically, Applicant has not shown, and the examiner cannot find, support for the newly claimed thickness limitation or stretch ratio of claim 20. The proposed correction to the specification would be sufficient to overcome the objection of Paper #27.

Applicant argues that the claimed invention has unexpected results over the cited documents. Specifically, Applicant argues that if the stretch ratio is too low, the elongation at break is too low, and if the stretch ratio is too high, the puncture resistance is also too high. However, the cited documents already show that the stretch ratio should be selected in order to obtain the desired puncture resistance (see Silverman, col 1, lines 11+) and elongation at break (see Strobel, paragraph 21). Therefore, the results are not deemed to be unexpected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin R Kruer whose telephone number is 703-305-0025. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Thibodeau can be reached on 703-308-2367. The fax phone numbers

Art Unit: 1773

for the organization where this application or proceeding is assigned are 703-305-5408

for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

*K-RK-*

krk  
July 7, 2003

*Paul Thibodeau*

Paul Thibodeau  
Supervisory Patent Examiner  
Technology Center 1700